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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,528	03/29/2004	Walter Forrest Frantz	BO1 - 0017US	1916
60483	7590	01/22/2008	EXAMINER	
LEE & HAYES, PLLC 421 W. RIVERSIDE AVE. SUITE 500 SPOKANE, WA 99201			KING, ANITA M	
			ART UNIT	PAPER NUMBER
			3632	
			MAIL DATE	DELIVERY MODE
			01/22/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/811,528	<b>Applicant(s)</b> FRANTZ ET AL.	
	<b>Examiner</b> Anita M. King	<b>Art Unit</b> 3632	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 October 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-5,10,13,15-17 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,10,13,15-17 and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

This is the eighth office action for application number 10/811,528, Non-Protruding Seat Track Apparatus, filed on March 29, 2004.

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 30, 2007 has been entered.

***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 4, 10, 13, 16, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,877,671 to Underwood et al., hereinafter, Underwood. Underwood discloses a payload track (20) for use with a payload assembly (16, 18, & 48), comprising: an elongated support including a first channel member having a first support surface (24, left), a second channel member approximately parallel to and spaced apart from the first channel member having a second support surface (24, right) approximately co-planar with the first support surface, the support surfaces being configured to engage directly or indirectly with a lower surface of a floor panel (12); an

engagement member (32) centrally disposed between the two channel members, wherein a first vertical side (44, left) of the engagement member is attached to a first adjacent portion (26) of the first channel member and a second vertical side (44, right) of the engagement member is attached to a second adjacent portion (26) of the second channel member, the engagement member includes an approximately horizontal top surface (43) configured to be coupled to the payload assembly; wherein the top surface is at least one of flush with and recessed below the first and second support surfaces, and wherein the top surface has at least one of an engagement slot (36) and an attachment aperture disposed therein; wherein each of the first and second channel members includes a plurality of longitudinal sides; wherein the top surface is co-planar with at least one of the lower surface of the floor panel and the support surfaces where the support surfaces are engaged with the lower surface; a floor assembly (10); and a payload member (14).

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 3 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Underwood in view of U.S. Patent 5,178,346 to Beroth. Underwood discloses the claimed invention except for the limitation of engagement slot having a plurality of alternating holes and lands. Beroth teaches a payload track (11) having first and second channel members, an engagement member centrally disposed between the

channel members, the engagement member having an engagement slot (12), wherein the engagement slot has a plurality of alternating holes (14) and lands (15), and a fastener apparatus (10) being configured to cooperatively engage a payload assembly. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the slot in Underwood to have included a plurality of alternating holes and lands as taught by Beroth for the purpose Of providing a locking means for attaching the payload assembly to the track in a quick, safe, and secured fashion.

Claims 5 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Underwood. Underwood discloses the claimed invention except for the limitation of the channel members having "C"-shaped section. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the channel members in Underwood to have had a "C"-shaped section, since such a modification appears to be merely an aesthetic choice that does not lend to any criticality and would not have yielded any unpredictable result.

### ***Response to Arguments***


Applicant's arguments with respect to claims 1, 3-5, 10, 13, 15-17, and 22 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita M. King whose telephone number is (571) 272-6817. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Anita M. King  
Primary Examiner  
Art Unit 3632

January 5, 2008